IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of	:	Customer Number: 46320
	:	
Yoshiko MIKAMI	:	Confirmation Number: 1909
	:	
Application No.: 10/632,160	:	Group Art Unit: 2152
	:	
Filed: July 31, 2003	:	Examiner: B. Whipple
	:	

For: NETWORK SYSTEM ALLOWING THE SHARING OF USER PROFILE
        INFORMATION AMONG NETWORK USERS

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Reply Brief is submitted under 37 C.F.R. § 41.41 in response to the EXAMINER'S

ANSWER dated August 20, 2008.

The Examiner's response to Appellant's arguments submitted in the Second Appeal Brief

of June 17, 2008 (hereinafter the Second Appeal Brief), raises additional issues and underscores

the factual and legal shortcomings in the Examiner's rejection. In response, Appellant relies

upon the arguments presented in the Second Appeal Brief, and the arguments set forth below.

REMARKS

Appellant has compared the statement of the rejection found on pages 4-6 of the Examiner's Answer with the statement of the rejection found on pages 3-6 of the Third Office Action. Upon making this comparison, Appellant has been unable to discover any substantial differences between the respective statements of the rejection. As such, Appellant proceeds on the basis that the Examiner's sole response to Appellant's Second Appeal Brief is found on pages 7-11 of the Examiner's Answer.

Referring to the arguments presented on pages 7 and 8 of the Examiner's Answer, Appellant inadvertently switched Gatz for Walker (and vice versa) in the discussion in the paragraph spanning pages 7 and 8 of the Second Appeal Brief. This inadvertent switching has caused the confusion evidenced in the Examiner's arguments on the last full paragraph on page 7 and in the paragraph spanning pages 7 and 8 of the Examiner's Answer.

Referring to the last full paragraph on page 8 and the paragraph spanning pages 8 and 9 of the Examiner's Answer, the Examiner initially asserted "[t]he motivation to combine is valid" and concluded "permitting a first user to execute programs being controlled by the first user for a second user as taught by Walker in order to allow a user to access desired programs." Appellant respectfully submits that the Examiner's analysis is not based upon a common sense rationale, as supported by the teachings of the applied prior art. Instead, the Examiner's obviousness analysis employs circular reasoning.

1   Specifically, the Examiner is asserting that "permitting a first user to execute programs

2   … allow[s] a user to access desired programs." Thus, the Examiner's proposed modification and

3   asserted rationale for the modification are essentially the same. Put another way, the Examiner

4   is, in essence, asserting that 'it would have been obvious to include feature A for the purpose of

5   allowing a user access to feature A.'" If this type of circular reasoning were sufficient to

6   establish a prima facie case of obviousness, then all applications could be rejected for being

7   obvious. Appellant's position is that the Examiner's circular reasoning fails to proper support a

8   conclusion that the claimed invention would have be obvious in view of Gatz and Walker.

9

10   _____

11   In response to arguments that neither Walker nor Getz appear to teach the claimed "a list

12   of one or more application that the first user [i.e., parent] is permitted to execute" since the

13   parent (supervisor, etc.) appears to have access to the application by default, the Examiner

14   initially asserted the following in the paragraph spanning pages 9 and 10 of the Examiner's

15   Answer:

16   In response to argument 2, the Examiner cites the previous response to argument 1:
17   "Appellant has previously argued that the parent of Gatz does not inherently have access to the
18   programs of the child (see page 6, last paragraph beginning "The Examiner did not discharge..."
19   continuing onto the first two lines of page 7). By Appellant's own argument, the first user in Gatz
20   may not have access to desired programs. Therefore, the Examiner fails to see how the Appellant
21   can now persuasively argue against the Examiner combining the prior art to address the limitation
22   argued to be missing by Appellant from Gatz. Essentially the Examiner brought in the second art
23   to supply the first user with the lack of access to programs, as argued to be missing by Appellant,
24   and now Appellant is arguing the proffered solution is already addressed by Gatz alone. Basically,
25   the Appellant's own arguments would lead to one assuming that the original rejection of the claim
26   over Gatz alone was proper."
27

28   To clarify certain points raised by the Examiner, Appellant did not argue that "the parent

29   of Gatz does not inherently have access to the programs of the child." Instead, Appellant argued

30   that the Examiner has failed to establish the inherency of these teachings. Moreover, Appellant

1   argued in the paragraph spanning pages 6 and 7 that _even if_ the parents inherently had access to

2   the applications, the parent (i.e., allegedly corresponding to the claimed first user) may not be

3   permitted to use the application.

4

5   The Examiner also asserted that "the Examiner brought in the second art to supply the

6   first user with the lack of access to programs, as argued to be missing by Appellant." The

7   Examiner's assertions are in error as to two points. First, the Examiner did not bring in Walker

8   to "supply the first user with the lack of access to programs." Instead, as stated on page 4 of the

9   Third Office Action and page 5 of the Examiner's Answer:

10   Walker discloses one scenario where a parent has access to all applications, including a browser,
11   using a parental password, but where the child has been limited to only the browser application
12   through the use of said password (Col. 9, ln. 61 — Col. 10, ln. 4).
13
14   Thus, as originally asserted by the Examiner, Walker was used to teach that the parent has

15   unrestricted access (i.e., access to all applications).

16

17   More importantly, the Examiner's second error lies in mischaracterizing exactly what

18   Appellant has argued to be missing from the applied prior art. Specifically, the applied prior art,

19   either alone or in combination, fails to teach "a list of one or more applications that the [parent]

20   is permitted to execute."

21

22   In the second full paragraph on page 10 and in the paragraph spanning pages 10 and 11 of

23   the Examiner's Answer, the Examiner further asserted the following:

24   Regarding the list of applications as claimed, the Examiner points to the relevant section
25   of the rejection: "([0014], ln. 1-4; [0049], ln. 14-17; [0071]; [0073]; [0074], ln. 8-12; [0075]; a
26   parent has control, through an account based access control system, of access to an information
27   network and may allow no, limited, or full access by a child to applications such as email,
28   chatrooms, message boards, and online shopping; the parent identifies a list of applications that

1   the child is allowed to access, and the parent is allowed to access due to full access rights, under
2   the control of the parent)."
3   Additionally, the Examiner points to Figure 4 of Gatz and the sections describing it
4   ([0054] - [0056]). These sections clearly show a list maintained for the purpose of a parent or
5   parents controlling a family account. The Examiner points to [0054] of Gatz which states, "a file...
6   includes data representing information used to control the account operation (including access)"
7   and [0056] which states, "one parent... managing the family account, such as updating information
8   and/or changing passwords."
9

10   The Examiner's analysis reflects the Examiner's failure to properly recognize and characterize

11   the claimed limitations. As claimed, the list of applications that the first user (i.e., allegedly

12   disclosed by the first parent) is stored in the profile of a second user (i.e., allegedly disclosed by

13   the child). The list disclosed by Gatz, however, is <u>not</u> associated with the first user/parent.

14   Instead, the list disclosed by Gatz is associated with the second user/child.

15

16   Appellant respectfully submits that the Examiner has mischaracterized paragraphs

17   [0054]-[0056] of Gatz. Although Gatz discloses both a family account and a parent account,

18   these cited paragraphs (and Gatz as a whole) is <u>silent</u> as to either the family account or the parent

19   account including "a list of one or more applications that the [parent] is permitted to execute."

20   This Examiner's cited passage that the "one parent … managing the family account, such as

21   updating information and/or changing passwords," does not support the Examiner's analysis. As

22   apparent from the plain language of this passage, the concept of "applications that the [parent] is

23   permitted to execute" is entirely absent from this passage, and updating information and/or

24   changing passwords fails to teach "one or more applications that the [parent] is permitted to

25   execute."

26

1   In the first full paragraph on page 11 of the Examiner made the following further

2   assertions:

3   Furthermore, even assuming that the parent may not have access to the program, Walker
4   was combined above to address this: "Walker discloses permitting a first user to execute the
5   programs being controlled by the first user for the second user (Col. 9, ln. 61 — Col. 10, ln. 4)."
6
7   Since the Examiner's has continually referred to the above-cited passage in Walker, this passage

8   is reproduced below:

9   If browser application 315 is being set up for the first time, browser application 315 next
10   enables a parent or supervisor exit password function. A random password is generated for a
11   parent or supervisor to use to exit browser application 315 and return computer system 100 to its
12   normal configuration and standard GUI O/S 311 desktop and interface. Without the password, a
13   child user or employee user cannot exit browser application 315 (process 430). At this point,
14   computer system 100 will remain in browser application 315 and, if re-booted, will automatically
15   return to browser application 315.
16

17   As evident from this passage, Walker does not teach "permitting a first user to execute

18 the programs being controlled by the first user for the second user," as asserted by the Examiner.

19 Instead, Walker teaches that a single program (i.e., a browser) can be set up by a

20 parent/supervisor to restrict use, by a user/employee, to the browser. The details of how use of

21 the browser by the user/employee is restricted is further described in column 10, lines 11-25.

22

23   In the second full paragraph on page 11 of the Examiner made the following further

24 assertions:

25   Therefore, the combination of Gatz in view of Walker, would necessarily result in the list
26   of one or more applications in Gatz being modified by Walker's teaching of a first user executing
27   the programs in the list, in order to come to the claimed limitation of "a list of one or more
28   applications that the first user is permitted to execute."
29
30 The Examiner's analysis is based upon mischaracterizations as to the applied prior art.

31

32   Walker does not teach "a first user executing the programs in the list." Instead, as already

33 noted above, Walker teaches that a first user (i.e., allegedly disclosed by parent/supervisor) sets

1　up a browser and is capable of restricting use of the browser, by a child/employee, to certain

2　websites. There is no need for a list of programs that the first user is permitted to execute (or

3　websites that the first user is permitted to browse) since the first user is not restricted to browsing

4　any websites as described in column 10, lines 13-16 of Walker.

5

6　_____

7　　　Walker and Gatz, either alone or in combination, neither explicitly teach nor require a list

8　associated with the first user (i.e., allegedly disclosed by a parent). The reason for this is very

9　straight-forward. First, to permit (or deny) the execution of an application by a second user (i.e.,

10　allegedly disclosed by a child) does not require any knowledge of what applications the first user

11　is permitted to execute. Both Gatz and Walker are capable of restricting access, by a

12　child/employee, to applications without knowing (or caring) what applications the

13　parents/supervisor are capable of accessing.

14

15　　　Second, neither Gatz nor Walker describe a need for a list of applications that the

16　parents/supervisor are capable of accessing. These references do not describe that the

17　parents/supervisor are restricted from accessing any applications. For example, regarding

18　Walker, column 10, lines 13-16 states that "[i]n parent mode, browser application 315 functions

19　like a standard browser in that any web site may be accessed by browser application 315 without

20　restriction." Similarly, upon reviewing paragraph [0014], lines 1-4; paragraph [0049], lines 14-

21　17; paragraphs [0073]-[0074]; and paragraph [0075], lines 8-12 of Gatz, Appellant has been

22　unable to find mention of the family/parent account being restricted in terms of applications

23　which the parent is permitted to executed.

1

2   The reason why a list is not needed when the parents/supervisor are not restricted from

3 accessing any applications is comparable to what happens when the average computer user logs

4 onto their own personal computer. In such an instance, the user is capable of accessing all of the

5 applications on their own personal computer. There is no necessary (i.e., inherent) requirement

6 that a list be created which identifies "one or more applications that the … user is permitted to

7 execute" because the user is already (i.e., by default) permitted to access all of the applications.

8 Simply put, where no restrictions are being enforced on the first user, there is no need for a list of

9 restrictions for the first user.

10

11   The prior three paragraphs encapsulate the differences between the claimed invention and

12 the applied prior art. The claimed invention permits use of a first user's list, which identifies

13 applications that the first user is permitted to execute, to be applied to a second user. However,

14 neither Gatz nor Walker either explicitly teach or contemplate a need for the first list. Instead,

15 both Gatz and Walker are directed to limiting a second user's ability to execute applications (or

16 browse websites) <u>without regard</u> to what applications a first user is permitted to execute (or what

17 websites a first user is permitted to browse). Thus, even if Gatz and Walker were combined, the

18 claimed invention would not result because both Gatz and Walker fail to teach the claimed "a

19 request … identifying a list of one or more applications that the first user is permitted to

20 execute."

21

For the reasons set forth in the Second Appeal Brief, and for those set forth herein, Appellant respectfully solicits the Honorable Board to reverse the Examiner's rejection under 35 U.S.C. § 103.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: October 20, 2008   Respectfully submitted,

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